

**Special City Council Meeting
City Hall Auditorium, 62 Friend Street
July 26, 2016
Immediately following the Finance Meeting
Minutes**

Councilor Scorzoni called the meeting to order at 7:48 p.m.

The Pledge of Allegiance was led by Councilor Stanganelli.

Members present were: Councilor Bartley, Councilor Einson, Councilor McMilleon, Councilor Sickorez, Councilor Stanganelli, Councilor Scorzoni, Councilor McClure, Councilor Lavoie and Councilor Sherwood.

2016-060 – An Order to Petition the General Court for Additional Licenses to Be Granted by the City Pursuant to Section 12 of Chapter 138 of the General Laws. – Mayor Sponsor
Summary: The City has reached its quota for the issuance of licenses permitting the sale of alcohol to be drunk on premises within certain establishments throughout the City. The City is unable to issue additional such licenses unless and until special permission to do so is granted to the City by the General Court.

Evan Kenney, Chief of Staff, presented. He said there is one full license left for the City. There are currently 18 full licenses which is our quota and 4-5 beer and wine licenses in use. The quota is determined by MGL Chapter 138 section 17 which defines it as one (1) license per thousand (1,000 people in the city). There have been efforts to get rid of the quotas most recently by the Governor and it is out of the municipal modernization bill at this point. Many of these types of bills go through and are generally considered non-controversial items and the legislature will actually take them up in formal session usually without much of a fight. He believed that Salisbury is in this position right now and we are in a similar position. He said that this legislation would ask for twelve (12) licenses. Realistically how this works is we ask for 12 and get something like 6.

Councilor McMilleon asked if there was a movement on the State level to make the determination of the need for licenses back to the local community rather than the state.

Mr. Kenney stated that the Governor's Municipal Modernization Bill includes language just like that. He believes it got through one house and not the other. He believes it was in the Senate version and not the House version. There has been a movement and it never seems to get any legs under it but we only do what we can to allow for flexibility for business in the city.

Councilor Scorzoni stated that the Boston State Delegation sent a letter to the Conference Committee on Municipal Modernization saying that they oppose taking this jurisdiction and handing it over to municipalities because they feel that State Reps. closest to some of these Boston neighborhoods should be able to maintain that oversight and jurisdiction from their standpoint. So, the Boston delegation has come in very strongly against this change offered by the Governor and as a result it seems fairly unlikely to pass by the end of this week. Stranger things have happened but that is the latest as far as public reports go.

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Councilor Einson stated that in reading the law that gives us the ability to request additional licenses, they get issued to a specific location and that they stay at that location so if a business closes someone can come into that same location.

Mr. Kenney stated that there is a lot of precedent for that and there is some flexibility the way we wrote it. We didn't specify a particular zoning district. Based on precedent, that might be an easier way to get it through but you don't know until you try so we are trying to create as much flexibility as possible.

Councilor Einson asked if all of the licenses that we do have are currently used.

Mr. Kenney stated that he believes that they are.

Councilor Sherwood questioned what the impact of raising the numbers will have on the current licenses that are held.

Mr. Kenney stated that he would have to know what the value of the current licenses are currently.

Councilor Sherwood stated that he understands it that the value is in being able to have that as well as the real property and what it created there. There are business owners who could explain it better.

Public Comment was opened

Sean Toomey of Crave Restaurant stated his concern is with 12 more licenses. He is not opposed to more restaurants but the impact of having 12 flood the market and possibly four new openings in our neighborhood in the same year would be an economic disaster. We might be the best when people come but you can't control the public's desire to explore and try different things. If four opened up at once you could damage a lot of families, a lot of people and a lot of businesses. As far as impact on the value of the businesses. He explained that when he bought Crave, the equipment was junk, the reputation was not great and the reason he spent hundreds of thousands of dollars on his business was because there were no liquor licenses available and so he was over a barrel. Once there is 12 more available the value of his business disappears. He mentioned the look of Rt. 1 in Seabrook and Hampton with all the restaurants lining the street and that it is a mess as well as whether our Health Inspector is ready to do inspections for 12 new establishments and how we already have a parking issue in town. He understands we are trying to entice people but 12 new licenses makes him very nervous and he would like to see it pared down and let the community weigh in and he would like the Council to take some time to think about this.

Jeff Nahas of Barking Dog and Ale House is concerned about the ability for that many liquor licenses to go out at once. It is not a fact that we don't want more restaurants in here but when two and three and four come in a row, we start to suffer. We can't get the employees, there is too many seats and parking becomes a major problem. Sean said it all very well and he agrees with everything he said. He asked the Council to consider with that number available what it could impact if so many opened at once.

Public Comment was closed.

Councilor Sickorez stated that he feels 12 is a doomsday scenario and we are likely to get more like 6.

Sean Toomey stated that he would be comfortable with two more. There is one available now that will get eaten up and the reality is that if someone wanted another license just like Mr. Healey did some time ago; he petitioned the council for a site specific license and was granted one for is building on Water St. Anyone can do that at any time they want. Think about Jeff Nahas, Jay Gould, Paul Eastman and Cristina; they took major chances on this community when the downtown was a dustbowl and now we could possibly be punishing the people who built this community and their downtown. He feels that some people could be hurt here and that we should take our time and take care of the people who put us on the map.

Councilor Lavoie recalled Mr. Toomey talking about a site specific license. He asked that even though we have met our quota of 18 licenses is it Mr. Toomey's understanding of Chapter 138 that the city can issue site specific beyond that number.

Mr. Toomey stated that is correct. He explained what he understands from being in the business is that if you own the building and you want to apply for a license and it will stay in that specific place and you are going to operate your business there you can petition and ask for that. This community has done it and so have hundreds of other communities around the state. So it is possible without having to flood the market.

Councilor Lavoie moved to re-open the public hearing.

Councilor Scorzoni stated that they would just take the final comment.

Mr. Nahas stated that he is looking at two different communities both of which he is looking at buildings and they don't have any more liquor licenses and right away they say to me we will make a site specific one.

Councilor McClure questioned the site specific licenses and whether or not you have to own the building or not.

Councilor Scorzoni stated there is a distinction between having a cap on what is allotted for the municipality and allowing those existing licenses to transfer from place to place which is what Mr. Toomey is talking about. If somebody goes out of business that license is sitting there tied to that property. What is being offered by the city is to increase that number but it is open ended.

Councilor McClure stated that what we are doing here is a pre-permit like we did with the Hotel. We are getting ready for someone who may come in. She stated that this is preparation for if that development happens at the Golden Triangle and the Terresphere we might need them. You don't want to lose great development because we don't have them. Maybe twelve is not the right number, maybe six is the right number and if we need more we come back.

Councilor Sherwood asked Mr. Kenney if they could discuss the rush on this because of the issues that have been brought up in putting it off for six more weeks until the September Council meeting.

Mr. Kenney stated that they spoke with the Senator's Office and the Rep's Office and ideally it is best to get it in as early as possible and best at formal session but it can be taken up at informal session and it will not die if we don't pass it tonight. He understands the concern of the business owners with flooding the market but he stated that this is just to lift the cap. The Liquor Licensing Commission has discretion as to who they issue licenses to and when they issue them. The Planning Board is all over any parking concerns, so there are checks and balances. The most unfair check and balance is the one that stops us from letting any business in at all in that sector. That is what we have right now with this quota. This administration wants to get out of the way of potential business owners as well as existing business owners as much as we possibly can. What we are doing here is allowing that flexibility but still allowing a check and balance with the Liquor Licensing Commission and Planning Board which you can show up to. Sean mentioned the city choosing the Governor's proposal that the jurisdiction and the autonomy to decide who gets them, how many liquor licenses are given out, that goes back to the local licensing authority. You seemed to like that idea; that is kind of what we are trying to get at here is that the local licensing can decide who gets the licenses and when and how many. If they decide to stop at three they can. We don't need to go to 12 or even 6. To us we so no harm in allowing that if the market says it can sustain it. We want the flexibility.

Councilor Lavoie asked if the Administration has been approached by would be builders that you have had to turn away because there are no more liquor licenses.

Mr. Kenney stated that no they have not because they just got the application for the last liquor license and this is to avoid having to have that conversation.

Councilor Bartley stated there is a business downtown that closed and had a liquor license does the license come back to the city?

Mr. Kenney stated that is usually what happens unless you are in a situation where it is site specific.

Councilor Scorzoni stated that when business owners come and speak it certainly catches our attention. This was filed fairly quickly and we have condensed the hearing which meant that we didn't have a lot of public comment and time to catch up. He feels this is a good thing to be proactive. He has spoken with Evan about the need to get this before the Legislature whose formal sessions convene on Sunday. After that there are no formal roll call votes that are taken and that is really the hard deadline in which legislation needs to get from the city to the state House with our local delegation so they can increase our allotment but the session does run to the end of the year. Typically these measures are deemed non-controversial local matters that he believes will move fairly routinely up until the end of the year. He feels it is true to get something filed sooner than later but he also does not want to do it too fast where we get folks riled up and he feels there is value in having some context of who is asking for what and what their needs are and to get some concrete information so that we know where we are. If not doing that then making sure that whatever we are looking to do above and beyond our current

limit may be tied to specific areas in town that is not necessarily focused in on the downtown that might alleviate things to an extent. At this point he feels there should be dialogue about having to forward and what the recommendations are and go from there.

Councilor McClure moved change the number to six on the license request and approve.

Councilor Einson seconded.

Councilor Lavoie proposed an amendment to the motion to alter the motion to read 3 rather than 6.

Councilor Sherwood seconded.

Councilor McMilleon Objected.

There was discussion as to postponing this to August so that further conversation could be had.

Councilor McMilleon stated that they should wait and continue this to the September meeting. We don't know the facts about this and we need better information about what the real potential is for requests. We should have a conversation with the Liquor Commission and we need more time on this.

Ms. Kitchin questioned if Councilor McMilleon objected and he stated that he did. She then stated that there should be no more discussion on this matter and it will be taken up at the next Council meeting.

Councilor Lavoie further objected.

Ms. Kitchin stated that this will now be taken up at the next Regularly Scheduled Meeting which will be in September.

Councilor Scorzoni stated that there is one additional item that was added to the agenda at the very last minute. It is an appointment that was made by the administration.

2016-072 Appointment of Dennis Moccia to the Conservation Commission with a term to expire on June 30, 2019. – Mayor sponsor

Mr. Kenney stated that his application was sent via e-mail to you all. The Mayor interviewed him and he did not feel Dennis needed to be here. Mr. Kenney stated that he would be happy to answer any questions.

Councilor Lavoie stated that the Mayor can at any time make an appointment and under the Charter the Council retains the right within a certain time-frame to approve or reject the appointment. It would make sense to move it ahead tonight and show our concurrence with this appointment.

There was no other discussion.

Councilor Lavoie moved to approve 2016-072, the appointment of Dennis Moccia to the Conservation Commission with a term to expire on June 30, 2019.

Councilor McClure seconded and it was voted unanimous.

Councilor McMilleon moved to adjourn at 8:35 p.m. Councilor McClure seconded. It was voted unanimously.

Respectfully submitted,

Sharon Dunning
Assistant City Clerk

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